

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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LEON LEWIS	:	CIVIL ACTION
	:	
Petitioner,	:	
	:	
v.	:	NO. 08-4498
	:	
FRANKLIN J. TENNIS, THE DISTRICT	:	
ATTORNEY OF PHILADELPHIA, and	:	
THE ATTORNEY GENERAL OF THE	:	
STATE OF PENNSYLVANIA,	:	
	:	
Respondents.	:	
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ORDER

AND NOW, this 12th day of May, 2010, upon consideration of the Petition for Writ of Habeas Corpus by a Person in State Custody (Document No. 1, filed Sept. 15, 2008) and Respondents' Answer to Petition for Habeas Relief (Document No. 9, filed Feb. 20, 2009), and after review of the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 (Document No. 19), Petitioner's Objection to Report and Recommendation (Doc. No. 20, filed Feb. 22, 2010), Petitioner's Amended Objection to Report and Recommendation (Doc. No. 21, filed May 12, 2010), and the record in this case, for the reasons set forth in the Memorandum dated May 12, 2010, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge M. Faith Angell, dated February 2, 2010 is **APPROVED** and **ADOPTED IN PART** and **REJECTED IN PART**, as follows:

a. Those parts of the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 relating to Grounds One through Five of the Petition for Writ of Habeas Corpus by a Person in State Custody are **APPROVED AND ADOPTED**, and those claims are **DISMISSED WITH PREJUDICE** as procedurally barred; and,

b. That part of the Report and Recommendation dated February 2, 2010 relating to Grounds Six and Seven is **REJECTED**;

2. Petitioner's Objection to the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 relating to Grounds One through Five of the Petition for Writ of Habeas Corpus by a Person in State Custody are **OVERRULED**; and

3. Petitioner's Objection to the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 relating to Grounds Six and Seven of the Petition for Writ of Habeas Corpus by a Person in State Custody are **SUSTAINED IN PART** and **OVERRULED IN PART** as follows:

a. Petitioner's Objection to those parts of the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 concluding that Grounds Six and Seven of the Petition for Writ of Habeas Corpus by a Person in State Custody were waived as a result of an independent and adequate state bar, and thus procedurally barred, are **SUSTAINED**; and

b. Petitioner's Objection to all other parts of the Report and Recommendation of United States Magistrate Judge M. Faith Angell dated February 2, 2010 analyzing Grounds Six and Seven are **OVERRULED**; and

4. Grounds Six and Seven of the Petition for Writ of Habeas Corpus by a Person in State Custody are **DENIED WITH PREJUDICE WITHOUT AN EVIDENTIARY HEARING**; and,

5. A certificate of appealability will not issue for the grounds on which the Court denies relief because reasonable jurists would not debate this Court's procedural rulings and because petitioner has not made a substantial showing of a denial of a constitutional right as required under 28 U.S.C. § 2253(c)(2). See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ Jan E. DuBois
JAN E. DUBOIS, J.